IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDEABAD

PRESENT:

THE HONB'LE SRI JSUTICE J. CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE P. SWAROOP REDDY

W.P.No. 244 of 2006
Dated: -04-2007

Between:
Smt. M. Kamalamma

...Petitioner

and

Smt. K. Padma and others

..Respondents

JC & PSR, JJ.

W.P.No. 244 of 2006

O r d e r:

(Per P. Swaroop Reddy, J.)

This writ petition is filed against the orders of the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A.No.2267 of 2005. As interim orders were granted in W.P.M.P.No. 299 of 2006, W.V.M.P.No. 355 of 2006 was filed for vacating the said orders. As

the matter pertains to the transfer of the petitioner, instead of passing orders on the interim applications, the writ petition, itself, is heard and disposed of by this order.

2. The facts are as follows: O.A.No. 2267 of 2005 was filed before the Andhra Pradesh Administrative Tribunal, Hyderabad, by the first respondent herein and respondent Nos. 5 and 6 etc., originally against the present respondent Nos. 2 to 4, the official respondents, contending that the applicants therein were working as Multi Purpose Health Workers (Female) under the control of the second respondent herein (the District Medical Health Officer). The Government (third respondent herein) issued orders relaxing the ban imposed on transfer of employees for a limited period upto 15.7.2004, vide G.O.Rt.No.512 dated:14.6.2004. In pursuance of the same, representations were called for from the employees seeking transfers, as per the guidelines stipulated in the above governmental order. The applicants in the O.A., and several others have made representations to the second respondent herein (DM&HO, Mahabubnagar), who in turn submitted proposals to the Government vide letters dated: 8.7.2004 and 14.7.2004 for transferring the employees as per the guidelines. The Director of Health (3rd respondent in the OA.) issued G.O.Rt.No.716 dated: 24.8.2004 permitting the DH&HO, Mahabubnagar to take up consequential action for issuing transfer orders. Accordingly the DM & HO and Director of Health gave effect to the proposals, as approved by the Government in the case of several persons and transfer and posting orders were issued. But the cases of the applicants in the OA., were not considered, they made several representations, without any result, and as such ultimately they filed OA, wherein the following interim order was granted:

"The orders of the Government issued in G.O.Rt.No.716 dated:24.6.2004 shall be implemented within a period of four weeks, if the above orders have not been cancelled or modified"

3. As the above orders were not implemented, the applicants filed C.A.No.460 of 2005. Thereafter the official respondents issued orders on 1.9.2005 implementing the proposals approved in G.O.Rt.No.716 dated:24.8.2004, in pursuance of which the applicants joined at their respective places of posting. After implementation of the orders of the Administrative Tribunal, the effected parties filed O.A.No. 5184 of 2005 and O.A.No.5187 of 2005 challenging the orders of the DM&HO issued in Rc.No.2834/E5/2005 dated:1.9.2005 on the ground that the impugned orders are contrary to orders in G.O.Rt.No.144 dated:7.6.2005. They also contended that they were not made parties to O.A.No.2267 of 2005, as such the interim order is not binding them, the Tribunal allowed O.A.No.2267 of 2005 while dismissing O.A.No.5184 of 2005 and 5187 of 2005 and as against the same the present writ petition is filed.

4. The case of the present petitioner is that she is working as Multi Purpose Health Worker (Female) at Mahabubnagar **since 7.9.1997** on spouse grounds, as her husband is a Government teacher working at Narsapur, which is at a distance of 5 Kms, from her place of working. The District Medical and Health Officer, Mahabubnagar issued proceedings No.2834/E5/2005 dated:1.9.2005 transferring and posting her to Primary Health Center, Maganoor, Sub-Center Krishna which is about 100 Kms from Mahabubnagar, on administrative grounds. The above transfer is said to have been made in pursuance of the orders of the Administrative Tribunal dated:18.6.2005 in O.A.No. 2267 of 2005, to which she was not a party. On knowing about the filing of the above O.A., she along with

others filed an application to implead themselves in the above OA., and she also filed O.A.No. 5184 of 2005 challenging the proceedings of the District Medical and Health Officer, dated: 1.9.2005. She raised several contentions in the writ petition. Her main grievance, as revealed from the affidavit filed in support of the writ petition, is that as per the guidelines/instructions issued vide proceedings No.1167/E4-11-F/04 dated:13.9.2004 people working on spouse grounds shall not be disturbed and as such she is not liable for transfer; the Tribunal ought to have considered that the transfer of the first respondent and others can be only against clear vacancies or against a post, where the incumbents are not covered by spouse grounds.

5. The main contesting respondents filed counter affidavit contending that the petitioner is working as Multi Purpose Health Worker (Female) in the present working place since 7.9.1997 and she has completed seven years of service by 2004 itself. She cannot claim permanent retention at the present work place on spouse ground. Even otherwise also there are several other vacancies available near to her husband's working place and the action taken by the official respondent is in accordance with the Rules.

6. Now, the point for consideration is whether there are any grounds to allow the writ petition.

7. The facts are not in dispute. The question is whether the petitioner is entitled for retention at Mahabubnagar?

8. There is no dispute that the petitioner has been working at Mahabubnagar since 7.9.1997. Even by the date of the impugned order, she has completed about eight years of service at

Mahabubnagar. Her main contention is that as per the proceedings No.1167/E4-11-F/04 dated: 13.9.2004 of the Director of Health, the people working on spouse grounds shall not be disturbed and that though she was working at the present place on spouse ground, she was disturbed, which is illegal. Perhaps, even as per the very same proceedings, referred to above, also, she is not entitled for the relief prayed for by her. G.O.Ms.No.512, Finance (W&M) Department dated:14.6.2004, in pursuance of which only proceedings No.1167/E4-11-F/04 dated: 13.9.2004 were issued, contemplates that long standing employees, having put in more than four years of service as on 14.4.2004, shall be liable for transfer in accordance with the guidelines. As per clause (3) of the above G.O., the employees whose spouse is employed at a different station, subject to the condition that only one of the spouses can be transferred. There is no total prohibition of transfer of employees on the spouse ground. When the main G.O.Ms.No. 512, itself, does not provide for prohibition of transfer, on spouse ground, the proceedings No.1167/E4-11-F/04 dated:13.9.2004, where there is prohibition of transfer of people on spouse ground cannot have any substantial force. However, fact remains that the first respondent has completed four years of service at her previous place and the petitioner completed almost ten years of service at the same place.

9. Considering the circumstances, we are of the opinion that the writ petition is liable to be dismissed and the same is accordingly dismissed. No costs.

10. However, it is ordered that the case of the writ petitioner, who is said to be posted at a distance of 100 Kms from Mahabubnagar, where her husband is working, can be considered for posting to any place near to Mahabubnagar, that, too, to a place,

where there is clear vacancy and there shall not be dislocation of any other person to accommodate her. The writ petitioner can make an application to the second respondent, the District Medical and Health Officer, Mahabubnagar, for such a transfer specifying three places of her choice, where there are clear vacancies and the official respondents shall consider the same and pass orders within three months from the date of receipt of application of the petitioner by the second respondent, the District Medical and Health Officer, Mahabubnagar.

J. CHELAMESWAR, J

-04-2007

BVS

P. SWRAOOP REDDY, J.